

34 other homes owned by Formation and operated by affiliates of Warburg Pincus as among the state's worst in categories like "nutrition and hydration," "restraints and abuse" and "quality of care." Those homes have been individually cited for violations of safety codes, but there have been no chainwide investigations or fines, because regulators were unaware that all the facilities were owned and operated by a common group, said Molly McKinstry, bureau chief for long-term-care services at Florida's Agency for Health Care Administration.

And even when regulators do issue fines to investor-owned homes, they have found penalties difficult to collect.

"These companies leave the nursing home licensee with no assets, and so there is nothing to take," said Scott Johnson, special assistant attorney general of Mississippi.

Government authorities are also frequently unaware when nursing homes pay large fees to affiliates.

For example, Habana, operated by a Warburg Pincus affiliate, paid other Warburg Pincus affiliates an estimated \$558,000 for management advice and other services last year, according to reports the home filed.

Government programs require nursing homes to reveal when they pay affiliates so that such disbursements can be scrutinized to make sure they are not artificially inflated.

However, complex corporate structures make such scrutiny difficult. Regulators did not know that so many of Habana's payments went to companies affiliated with Warburg Pincus.

"The government tries to make sure homes are paying a fair market value for things like rent and consulting and supplies," said John Villegas-Grubbs, a Medicaid expert who has developed payment systems for several states. "But when home owners pay themselves without revealing it, they can pad their bills. It's not feasible to expect regulators to catch that unless they have transparency on ownership structures."

Formation and Warburg Pincus both declined to discuss disclosure issues.

Groups lobbying to increase transparency at nursing homes say complicated corporate structures should be outlawed. One idea popular among organizations like the National Citizens' Coalition for Nursing Home Reform is requiring the company that owns a home's most valuable assets, its land and building, to manage it. That would put owners at risk if care declines.

But owners say that tying a home's property to its operation would make it impossible to operate in leased facilities, and exacerbate a growing nationwide nursing home shortage.

Moreover, investors say, they deserve credit for rebuilding an industry on the edge of widespread insolvency.

"Legal and regulatory costs were killing this industry," said Mr. Whitman, the Formation executive.

For instance, Beverly Enterprises, which also had a history of regulatory problems, sold Habana and the rest of its Florida centers to Formation because, it said at the time, of rising litigation costs. AON Risk Consultants, a research company, says the average cost of nursing home litigation in Florida during that period had increased 270 percent in five years.

"Lawyers were suing nursing homes because they knew the companies were worth billions of dollars, so we made the companies smaller and poorer, and the lawsuits have diminished," Mr. Whitman said. This year, another fund affiliated with Mr. Whitman and other investors acquired the nation's third-largest nursing home chain, Genesis HealthCare, for \$1.5 billion.

If investors are barred from setting up complex structures, "this industry makes no economic sense," Mr. Whitman said. "If nursing home owners are forced to operate at a loss, the entire industry will disappear."

However, advocates for nursing home reforms say investors exaggerate the industry's precariousness. Last year, Formation sold Habana and 185 other facilities to General Electric for \$1.4 billion. A prominent nursing home industry analyst, Steve Monroe, estimates that Formation's and its co-investors' gains from that sale were more than \$500 million in just four years. Formation declined to comment on that figure.

#### ANALYZING THE DATA

For this article, The New York Times analyzed trends at nursing homes purchased by private investment groups by examining data available from the Centers for Medicare and Medicaid Services, a division of the Department of Health and Human Services.

The Times examined more than 1,200 nursing homes purchased by large private investment groups since 2000, and more than 14,000 other homes. The analysis compared investor-owned homes against national averages in multiple categories, including complaints received by regulators, health and safety violations cited by regulators, fines levied by state and federal authorities, the performance of homes as reported in a national database known as the Minimum Data Set Repository and the performance of homes as reported in the Online Survey, Certification and Reporting database.

#### CUBA

Mr. COLEMAN. Mr. President, I would like to take the opportunity to submit for the RECORD an article published today in the Miami Herald regarding the situation in Cuba. The article captures the situation imposed on the Cuban people by the authoritarian rule of the Castro brothers, as well as challenges the international community to stand firm in its commitment to true democratic change in Cuba. For decades Fidel Castro, and now his brother Raúl, have deprived the Cuban people of freedom and the hope of a better future. It is clear that Cuba finds itself in a time of transition, yet surely the Castro brothers will do everything in their power to ensure that the system of repression that they have built up for the past half century will remain in place whenever Fidel Castro passes away. For this reason, it is incumbent on all of us who aspire for a free and democratic Cuba to ensure that this moment of opportunity for democratic change on the island is not lost.

I ask unanimous consent to have the following article printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### APPEASING THE CASTROS WILL BACKFIRE

(By Frank Calzon)

The "Stockholm syndrome" describes the phenomenon of hostages who identify, cooperate with and, finally, defend their kidnappers. The longer they are held, the more victims are likely to be affected by the syndrome, because they are totally dependent on their abusers. The control over every aspect of life convinces the victim that he or

she is alone, there will be no help from others; resistance is useless and only makes things worse.

That's the kind of control Fidel Castro, and now his brother Raúl, exercise in Cuba.

There, everything comes from Castro and his government. The regime wants the Cuban people to believe they have no other friends. And, alas, even foreign diplomats and their dependents stationed in Havana begin after time to feel this intimidating dependency and to become reluctant to protest outrages directed at them because "it only results in more abuse."

Castro's abuse—his ability to order windows smashed or call out street demonstrations—becomes "revenge" for inviting unapproved Cuban guests to the embassy, for reaching out to engage ordinary Cubans in ways not preapproved by Castro's government.

Foreign observers in Cuba seem to have great difficulty imagining what the regime will do next. One reason why is that they keep looking for logical reasons to explain the regime's actions. Yet the reality is that much of what has happened in Cuba over the last 50 years cannot be explained, except as the whim of a man whose only goal is to be in control of everything Cuban. Castro has a lot in common with Stalin.

The Castro regime simply deems any independent action—however small—to be a challenge to its totalitarian control. Thus, inviting Cuba's political dissidents to an embassy event is "a hostile act." To give a short-wave radio to a Cuban national is, curiously enough, "a violation of human rights." Any Cuban daring to voice support for change in Cuba is "a paid agent" of the United States.

What to do in a situation such as this? The principle that should guide foreign governments is that they should show Cubans that they have friends on the outside.

Foreign governments can start by, at the very least, always insisting on reciprocity in the freedom allowed Castro's diplomats and embassies to operate in their capitals. This is not what happened. Foreign missions—America's among them—accede to Castro's restrictions on how their diplomats and embassies function in Cuba.

Cuba's diplomats take full advantage of their freedoms in the U.S. capital. They attend congressional hearings, have access to the American media, develop relationships with businessmen and "progressive" activists, host student groups, speak at universities and enjoy tax-exempt status. Yet U.S. diplomats in Cuba have no similar privileges in Havana. They are subject to petty harassments. The Cuban government goes so far as to detain shipping containers of supplies sent to the U.S. Interests Section in Cuba and has broken into the U.S. diplomatic pouch.

Attempting to appease Cuba's kidnappers will backfire, as it always has. It is instructive that the refugee crises in 1980 and 1994, which involved 125,000 and 30,000 Cubans respectively, and the 1996 murder of Brothers to the Rescue crews over the Florida Straits occurred at times when Washington actually was trying to improve relations.

Eventually, Cuba's long nightmare will end. If governments around the world would also shake free of "the Havana Syndrome," they might hasten Cuba's democratic awakening.

Fidel and Raúl Castro will attempt to turn their day of reckoning into a negotiation with Washington—a negotiation excluding dissidents and exiles. Yet it is Cubans who must decide the fate of Cuba. All evidence indicates that President Bush will remain firm. If the Department of State does not flinch, Cuba's interim president and new leaders will have to talk with and listen to their political opponents. That is what democracy means and that is what the world community should boldly support today.